

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

EUGENE WYATT

No. 3:13-cv-01685-AC

Plaintiff,

FINDINGS AND
RECOMMENDATIONS

v.

PEOPLE'S REPUBLIC OF CHINA and
BAIDU.COM, INC.

Defendants.


ACOSTA, Magistrate Judge

Plaintiff Eugene Wyatt ("Wyatt") filed this action on September 23, 2013, against the People's Republic of China ("PRC") and Baidu.com, Inc. alleging violations of Wyatt's statutory and constitutional rights. On April 14, 2014, Wyatt moved to voluntarily dismiss without prejudice Defendant PRC. Federal Rule of Civil Procedure 41 provides that a plaintiff may dismiss a claim without leave from the court by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Here, service of process remains unexecuted against

PRC, and it has filed neither a responsive pleading nor a motion for summary judgment. Although Wyatt unnecessarily seeks leave from the court to dismiss Defendant PRC, the court can conceive of no reason deny Wyatt's request. Because Wyatt has a right to voluntarily dismiss PRC as a defendant pursuant to Federal Rule of Civil Procedure 41(a), the court should GRANT Wyatt's Motion to Dismiss Party (Dkt. No. 15).

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due July 3, 2014. If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, a response to the objections is due fourteen days after the date the objections are filed and the review of the Findings and Recommendation will go under advisement on that date.

DATED this 19th day of June, 2014.



JOHN V. ACOSTA
United States Magistrate Judge